

# IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

---

## COMPLETE TITLE OF CASE

STATE OF MISSOURI ex rel. ATTORNEY GENERAL CHRIS KOSTER,

Appellant,

v.

CHARTER COMMUNICATIONS, INC., d/b/a CHARTER COMMUNICATIONS; CHARTER  
FIBERLINK-MISSOURI, LLC; and CHARTER ADVANCED SERVICES (MO) LLC,

Respondents.

---

**DOCKET NUMBER** WD78258

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** May 26, 2015

---

## APPEAL FROM

The Circuit Court of Cole County, Missouri  
The Honorable Patricia S. Joyce, Judge

---

## JUDGES

Division III: Pfeiffer, P.J., and Witt and Gabbert, JJ.

CONCURRING.

---

## ATTORNEYS

Chris Koster, Attorney General, Jefferson City, MO  
Joshua M. Jones, Assistant Attorney General, St. Louis, MO

Attorneys for Appellant,

Steven M. Sherman and Maria A. Lanahan, St. Louis, MO  
John D. Landwehr, Jefferson City, MO

Attorneys for Respondents.

---



## MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI ex rel. )  
ATTORNEY GENERAL CHRIS )  
KOSTER, )  
 )  
Appellant, )  
v. )  
 )  
CHARTER COMMUNICATIONS, INC., )  
d/b/a CHARTER COMMUNICATIONS; )  
CHARTER FIBERLINK-MISSOURI, )  
LLC; and CHARTER ADVANCED )  
SERVICES (MO) LLC, )  
 )  
Respondents. )

**OPINION FILED:**  
**May 26, 2015**

**WD78258**

**Cole County**

**Before Division III Judges:** Mark D. Pfeiffer, Presiding Judge, and Gary D. Witt and Anthony Rex Gabbert, Judges

Appellant-Relator, Missouri Attorney General Chris Koster, appeals the judgment of the Circuit Court of Cole County, Missouri, declaring that the Civil Investigative Demands issued to Respondents by the Attorney General were not authorized by the Electronic Communications Privacy Act, 18 U.S.C. § 2701, and were thus not enforceable.

**REVERSED; JUDGMENT ENTERED AS SHOULD HAVE BEEN ENTERED BY THE TRIAL COURT.**

**Division III holds:**

The Civil Investigative Demands (“CIDs”) issued by the Attorney General are “administrative subpoenas” for purposes of the Electronic Communications Privacy Act (“ECPA”), and they requested only non-content basic subscriber information. Accordingly, compliance with the CIDs by Respondent providers of electronic communication services does not violate the ECPA.

The CIDs also do not violate the Fourth Amendment's prohibition of unreasonable searches and seizures, nor, since the Fourth Amendment's protections have already been interpreted to extend to electronic communications, do they violate the Missouri Constitution's analogous provision, article I, section 15. To be deemed reasonable for constitutional purposes, an administrative record-inspection mechanism, such as the CIDs in this case, must allow an opportunity for pre-compliance judicial review, must comply with the authorizing statute, must seek information that is relevant to the administrative inquiry, and must not be too indefinite or overbroad. The CIDs in this case satisfy all of the constitutional requirements.

Because neither the ECPA nor the Federal or State constitutions prohibit compliance with the CIDs, the Circuit Court erred in refusing to order Respondents to comply.

**Opinion by: Mark D. Pfeiffer, Presiding Judge**

May 26, 2015

\* \* \* \* \*

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.